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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/695,898	10/24/2000	Donald F. Gordon	19880-000610	3377

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EXAMINER

LEE, Y YOUNG

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 08/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/695,898

Applicant(s)

Donald F. Gordon

Examiner

Y. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-8, 10, and 12-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Yang et al (6,005,620).

Yang et al, in Figure 4, discloses a statistical multiplexer for live and pre-compressed video that is the same system and method for inserting a second compressed video stream 52 into a first compressed video stream 30 as specified in claims 1-8, 10, and 12-20 of the present invention, comprising receiving the first compressed video stream 30; determining a profile 40 for the first compressed video stream 30; encoding a second video 32 in accordance with a

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particular encoding scheme 42 and further with a profile similar to the profile 40 of the first compressed video stream 30 to generate the second compressed video stream 52; controlling the encoding of the second video 32 based at least in part on the profile 40 of the first compressed video stream 30; and inserting 34 the second compressed video stream 52 into the first compressed video stream 30.

With respect to claims 2-8, 10, and 12-20, Yang et al also discloses determining the profile 78 for the second compressed video stream; wherein the encoding of the second video 32 is controlled such that a profile 42 for the second compressed video stream 52 is similar to the profile 40 for the first compressed video stream 30 at approximately a point in time when the second compressed video stream 52 is inserted into the first compressed video stream 30; the encoding of the second video 32 is further controlled such that the profile 42 for the second compressed video stream 52 is similar to the profile 42 for the first compressed video stream 30 at approximately a point in time when the first compressed video stream 30 is inserted back into the second compressed video stream 52; initially multiplexing the first compressed video stream 30 as an output video stream 36; multiplexing the second compressed video stream 52 as the output video stream 38 at a point in time when the inserting 34 is to be achieved; splicing the second compressed video stream 52 to the first compressed video stream 30; pausing the first compressed video stream 30 for the time during which the second compressed video stream 52 is multiplexed as the output video stream 38; receiving a second control signal 42 indicative of a second time period within which the inserting is to be performed and initiating the encoding of

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the second video 32 in response to receiving the second control signal 42; buffering the second compressed video stream 52 prior to the inserting; wherein the profile 42 for the first compressed video stream 30 includes bit rate information 40 related to the first compressed video stream 30; the profile for the first compressed video stream 30 further includes video buffering verifier buffer information 86 used for the encoding; and the second video 32 is encoded in accordance with an MPEG encoding scheme.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang et al.

Although Yang et al discloses the second video 32 relates to a video source and the first compressed video stream 30 relates to a program video; and wherein the bit rate information 40 is summed over a particular time period, it is noted Yang et al differs from the present invention in that it fails to particularly disclose an advertisement, high, low, and mean bit rates as specified in claims 9 and 11. However, Examiner takes Official Notice that such information are

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notoriously well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, having the reference of Yang et al before him/her, to exploit different video sources such as ads in the system of Yang et al by controlling various bit rates in order to reliably multiplex any live and pre-compressed video.

Conclusion

5. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for formal communications intended for entry)

(for informal or draft communications, please label


"PROPOSED" or "DRAFT")

Or:

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA., Sixth Floor (Receptionist).

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Y. Lee whose telephone number is (703) 308-7584.


Y. LEE
PRIMARY EXAMINER

Y. Lee/yl
August 11, 2003